

STATE OF VERMONT

HUMAN SERVICES BOARD

In re) Fair Hearing No. 12,168

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Appeal of)

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INTRODUCTION

The petitioner appeals the decision by the Department of Social Welfare reducing her ANFC benefits. The issue is whether the Department may consider the income of the father of two of her children in computing the level of benefits to the petitioner's ANFC household.

FINDINGS OF FACT

This is another so-called DEFRA case, in which the Department, pursuant to federal statute, mandates the inclusion in an ANFC "assistance group" of the siblings and parents of all eligible children. In the petitioner's case, she resides with four children from a previous marriage and two children she has in common with another adult residing in the home. When the father of the children in common recently became unemployed, the Department notified the petitioner that he and the children would have to be included in the petitioner's ANFC assistance group and that the income of the father (unemployment benefits) would be considered as available to the entire household. As a result of this additional income being "deemed" available to

the entire household, the Department reduced the petitioner's ANFC grant.

The petitioner, who appeared *pro se*, took no issue with the facts and figures relied upon by the Department in its determination. Although she disagrees with the effect and rationale of the regulations in question, she could not dispute that the Department was applying those regulations correctly to her situation.

ORDER

The Department's decision is affirmed.

REASONS

The board is painfully aware of the provisions in the regulations, adopted pursuant to the 1984 DEFRA amendments to the federal ANFC statutes, mandating the inclusion in an ANFC household of all siblings, and parents of those siblings, who reside with ANFC-eligible children, and "deeming" the income of those siblings as "available" to the entire ANFC household. See Fair Hearing's No. 6648 et al. and W.A.M. § 2242. This case again illustrates the incongruity in the manner in which Congress implemented these so-called deeming provisions.⁽¹⁾

Nonetheless, it is clear in this matter that the Department has correctly followed what the United States Supreme Court has upheld as a valid procedure for determining the ANFC eligibility of individuals in the petitioner's circumstances.⁽²⁾ Therefore, the board has no choice but to affirm the Department's decision. 3 V.S.A. § 3091(d) and Fair Hearing Rule No. 19.

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1. By statute, mandatory household inclusion and income-deeming of half-siblings occurs only when the parent of that sibling is absent, unemployed, or incapacitated--but not when the parent is living in the household and is working. See 42 V.S.C. § 602(a)(38).
2. See Bown v. Guillard, 55 U.S.L.W. 5079 (1987).